

REMARKS

Claims 10-11 and 13-14 are currently pending in the application. On page 2 of the Office Action, claims 10-11 and 13-14 were rejected under 35 U.S.C. § 101 due to the claims allegedly being directed to non-statutory subject matter. On page 3 of the Office Action, the Examiner alleges that claims 10-11 can be implemented by a human with a pencil and a piece of paper. The Examiner further alleges that the language of claims 10-11, therefore, raise a question as to whether the claimed method is directed merely to an abstract idea that is not tied to producing a concrete, useful, and tangible result.

On page 4, the Examiner indicated that the claims should be amended to indicate that the subject matter recited therein is implemented by a computer, that is, a computer-implemented method.

Applicants respectfully submit that the Board of Patent Appeals and Interferences recently issued a decision relating to patentable subject matter under 35 U.S.C. § 101. In the Ex parte Lundgren decision, the Board ruled that that there is currently no judicially recognized 'technological arts' test to determine patent eligible subject matter under § 101. Applicants respectfully submit that there is no requirement to amend the claims as suggested by the Examiner in the current case. That is, Applicants are not required to amend claims to include a recitation such as, "computer-implemented method" or indicate that a particular operation is performed "via a computer," for example.

Applicants realize that the mailing date of the Office Action was before the date of the ruling by the Board and respectfully request that the rejection be withdrawn in light of the new case law.

On page 4 of the Office Action, the Examiner alleged that as claims 13-14 do not indicate that the subject matter is embedded on a computer-readable medium and not executed by a computer or machine, the claims are not statutory.

Applicants have amended claims 13-14 to indicate that the program is included on a computer-readable medium and is executed by a computer. Hence, withdrawal of the rejection is respectfully requested.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

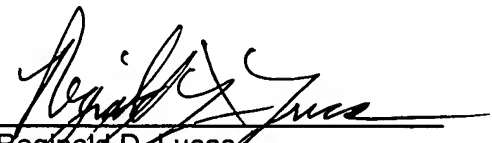
Serial No. 10/022,536

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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By: 
Reginald D. Lucas
Registration No. 46,883

1201 New York Avenue, NW, Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501